

ALFREDO LOPEZ

(Name)

CMC EAST (P.O. BOX 8101) (CELL 5299)

(Address)

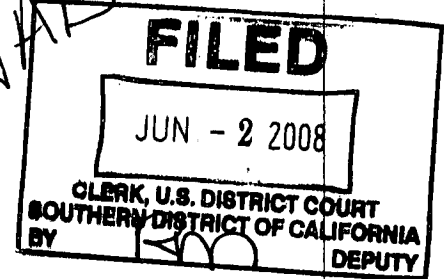
SAN LUIS OBISPO, CA. 93409-8101

(City, State, Zip)

T-62317

(CDC Inmate No.)

2254	1983
FILING FEE PAID	
Yes	No
HYP MOTION FILED	
Yes	No
COPIES SENT TO	
Court A	ProSe



United States District Court
Southern District of California

ALFREDO LOPEZ

(Enter full name of plaintiff in this action.)

Plaintiff,

v.

SUSAN PASHA
AND DOES (1 THRU 10)

(Enter full name of each defendant in this action.)

Defendant(s).

'08 CV 0988 L RBB

Civil Case No. _____

(To be supplied by Court Clerk)

Complaint Under the
Civil Rights Act
42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. **Plaintiff:** This complaint alleges that the civil rights of Plaintiff, Alfredo Lopez (print Plaintiff's name), who presently resides at CMC East (Cell 5299) (mailing address or place of confinement), were violated by the actions of the below named individuals. The actions were directed against Plaintiff at Richard J. Donovan C.F. 480 Alta Rd. San Diego on (dates) 3/10/06, , and (institution/place where violation occurred) (Count 1) (Count 2) (Count 3)

2. **Defendants:** (Attach same information on additional pages if you are naming more than 4 defendants.)

CR

Defendant SUSAN PASHA resides in San Diego ,
(name) (County of residence)
and is employed as a Nurse Practitioner . This defendant is sued in
(defendant's position/title (if any))
his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law: She was acting under the authority of the State of California.

Defendant N/A resides in ,
(name) (County of residence)
and is employed as a . This defendant is sued in
(defendant's position/title (if any))
his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law:

Defendant N/A resides in ,
(name) (County of residence)
and is employed as a . This defendant is sued in
(defendant's position/title (if any))
his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law:

Defendant N/A resides in ,
(name) (County of residence)
and is employed as a . This defendant is sued in
(defendant's position/title (if any))
his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law:

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: **RIGHT TO**

(E.g., right to medical care, access to courts,

MEDICAL CARE WHICH VIOLATED PLAINTIFF'S EIGHTH AMENDMENT RIGHT due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

On March 10, 2006, I was housed in the Richard J. Donovan Correctional Facility (RJDFC) in San Diego, California. The institutional dentist, after performing dental work, prescribed ibuprofen up to 800 mg. every 4 hours. I ingested the ibuprofen as prescribed.

On April 05, 2006, twenty-five days after the dental visit, I consulted Ms. Susan Pasha, Nurse Practitioner, employed by the State of California, because I was feeling very tired and weak, suffering from dizziness, having severe stomach pain and defecating black stool. I told her that I had been taking ibuprofen for the past month. I asked her to please refer me to a physician based on the symptoms I was experiencing but she refused. Instead she prescribed aspirin for me to take. I suggested to her that maybe I should stop taking the ibuprofen and not take the aspirin until I consulted a physician. She replied that she understood my concerns and that the NSAIDS such as aspirin and ibuprofen when taken could cause problems. Yet she again refused my request to refer me to a physician and suggested that I take the aspirin. Relying on her expert medical judgment, I ingested the aspirin and ibuprofen in combination for 5 further days and aspirin without ibuprofen thereafter.

On May 03, 2006, I consulted Pasha for a second time and informed her that I was vomiting blood, defecating black stool, unable to sleep, feeling weaker day by day and passing red and bloody stool in conjunction with my defecation. She again refused my request to refer me to a physician or prescribe an alternate medication to the aspirin. Instead she renewed the aspirin prescription. Being frustrated, I left her office and did not know what else to do. Again I relied on her medical expert judgment and continued with the aspirin.

Continued on Attached Page

On May 31, 2006, and June 28, 2006, I saw Pasha again. On both occasions I again complained about my continuous vomiting of blood, defecating both black and red bloody stool, feeling weak and dizzy to a point of being practically unable to stand on my own as well as experiencing severe abdominal pain. Yet, she refused my repeated request to refer me to a physician, stop the aspirin treatment or alternatively prescribe a substitute. My symptoms worsened and I felt I was being tortured by her, both physically and mentally. I felt extremely depressed not knowing what to do.

On July 12, 2006, I saw Pasha again. She openly admitted that very likely it was the aspirin that was causing the bleeding and other complications. She discontinued the aspirin on that date.

On July 14, 2006, at the direction of Pasha, my blood was drawn for analysis.

On July 17, 2006, the results revealed that my blood was severely low in several categories.

On July 20, 2006, the pain was so excruciating and my health was rapidly deteriorating to a point that the institution transferred me, via ambulance, to the emergency room at Alvarado Hospital and Medical Center in San Diego, California. The emergency physician upon learning from me (that I was vomiting and defecating blood following ibuprofen and aspirin since March 10, 2006) and upon physically examining me, gave me a provisional diagnosis of a bleeding peptic ulcer. He also asked me as to why I was not sent there a lot sooner. My blood was drawn at the hospital for analysis and the results were more ominous than those that was recorded at RJDCF 3 days prior. I had to go through a battery of blood, urine, and stool tests, as well as contrast x-ray upper G.I. series, colonoscopy, esophageo-gastro-duodenoscopy with biopsy. I was diagnosed with a duodenal ulcer and given 2 units of packed red blood cells because of the loss of blood I had suffered. I was subsequently hospitalized for 6 days and during discharge given iron pills which caused me to be so constipated that I suffered a reoccurrence of hemorrhoids from straining to defecate, which to this day, I still suffer from and is currently awaiting hemorrhoidectomy surgery.

On July 25, 2006, I was discharged from Alvarado Hospital with discharge instructions by the physician to the medical staff at RJDCF to avoid giving me any further NSAIDS. Even after my return to RJDCF, I was still suffering from weakness and prostration.

On August 28, 2006, I saw Ms. Lindy L. Dugan, M.D., who had substituted Nurse Practitioner Pasha. She prescribed me Acetaminophen 500 mg. with directions to take 2 tablets every 8 hours. Dr. Dugan also informed me that she had replaced Pasha.

~~To this date I am still suffering from the complications of duodenal ulcer.~~

Count 2: The following civil right has been violated: N/A
(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 2.]

Count 3: The following civil right has been violated: N/A
(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: Alfredo Lopez

Defendants: Unnamed Pharmacist, Cathe Fransdal, I. Choo, Kinji L. Hawthorne, Lindy L. Dugan, Susan Pasha.

(b) Name of the court and docket number: U.S. District Court, Southern District of California: Docket Number 3:07-cv-01905-DMS-LSP

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] Case dismissed with prejudice

(d) Issues raised:

Plaintiff received inadequate medical care which violated his eighth

Amendment Constitutional right.

(e) Approximate date case was filed: October 2007

(f) Approximate date of disposition: April 15, 2008

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

A CDCR Inmate 602 was filed on September 17, 2006 in regards to this complaint. It was partially granted. Because I was dissatisfied with the administrative response, the 602 was appealed to the Inmate Appeals branch. This concluded the level of exhaustion within the Department of Corrections and Rehabilitation.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s):

2. Damages in the sum of \$ 500,000 (Compensatory)
3. Punitive damages in the sum of \$ 5,000,000
4. Other: As the Court deems fit

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

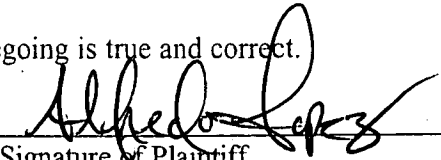
☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

I declare under the penalty of perjury that the foregoing is true and correct.

5-28-08
Date


Signature of Plaintiff

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is to be used for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Alfredo Lopez

Pasha, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Luis Obispo
(EXCEPT IN U.S. PLAINTIFF CASES)

FILING FEE PAID
DEFENDANTS
Yes ☒ No ☒
IF MOTION FILED
Yes ☒ No ☒
COPIES SENT TO
Court ☒ Pro Se ☒
(NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND)

FILED
JUN - 2 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY Rm DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Alfredo Lopez
PO Box 8101
San Luis Obispo, CA 93409
T-62317

ATTORNEYS (IF KNOWN)

'08 CV 0988 L RBB

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|
| PT | DEF | | PT | DEF |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(a)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Eiectmant <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 6/2/2008

SIGNATURE OF ATTORNEY OF RECORD

Rm

CP